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Note: This brief rundown of organic regulations is informal and not meant to represent the official explanation of the USDA's regulations or of CCOF Certification Services, Inc.'s certification standards.

Organic Certification and its Relation to Genetically Engineered Crops

First off, the federal regulations concerning certified organic production do not allow in any form whatsoever the use of genetically modified products. Early in the process of federal rulemaking, when USDA put out draft regulations and included genetically modified materials in allowable materials (along with biosolids and other materials not traditionally used by organic producers prior to federal involvement), the response from consumers was monumentally against their inclusion and, as a result, it was permanently removed from consideration.

The Process of Organic Certification

The process of organic certification applies to any grower, handler or processor who wants to sell a product with an "organic" label on it. The only exception to this is growers who have annual sales of under \$5000. When the grower, handler or processor wants to become certified, they can contact any federally authorized organic certifier. These certifiers (many of them existed prior to the imposition of the federal rule on October 11, 2002) are required to have their procedures for certification reviewed and okayed by the USDA's National Organic Program (NOP). It is important to note that the federal guidelines are not very specific and that it is up to the certifier to provide more specificity to the certification process -- but the NOP must okay the specifics. Once the NOP okays the certifier's procedures for certification, the certifier is authorized to certify any grower, handler and/or processor.

The basic idea underlying the philosophy of organics is the maintenance of soil health. This means that all products, procedures and plans that a grower, handler and/or processor undertake are meant to ensure that soil health is maintained and/or improved. When actual regulations were written up to cover growing, handling and processing of crops and animals, the philosophy becomes a little more attenuated as it becomes harder and harder to directly link the activity with soil. As the regulations develop (they are still being developed but currently cover a very large number of food and fiber activities), they are more likely to protect the certified organic system, i.e., ensure that non-organic materials do not contaminate the organic materials when economically possible. Regulations cover everything from the organization of the crops (including what crops are grown, how they are grown, how they are rotated, etc.), how crops are stored and transported (to avoid commingling with conventional products), and how they are packaged. Willful or reckless disregard of the maintenance of the organic production process can lead to decertification – whether as a result of complaints being lodged against the grower, handler or processor or as a result of the annual inspections made by the certifier as mandated by

the federal regulations (or by random inspections by certifiers which are also mandated). With the federal regulations, there is a strict due process standard enforced in that decertification cannot be implemented until the grower, handler or processor has exhausted all their avenues of appeal. Previous to the imposition of the federal regulations, the burden of proof was on the certified party in that a certifier was able to suspend the organic certification until the certifier was satisfied that there was no problem. With the authorization of CDFA's Organic Program as a state organic authority, appeals will be decided by CDFA's Organic Program rather than by the USDA's National Organic Program, which to-date has yet to decide on any appeals (some appeals have been pending for over a year).

An important example of this issue relates to the Genetically Engineered (GE) drift issue. If GE drift occurs and results in the inadvertent genetic contamination of organic product, the organic producer to whom this occurred couldn't be held responsible and, thus, the product cannot be decertified. This assumes that the organic producer took all the necessary precautions in coming up with their Organic System Plan (OSP). While seemingly a good idea, the regulations do not address the larger problem of market acceptability. This is to say that, while a grower would still be allowed to sell genetically contaminated product as being certified organic, it is highly unlikely that a buyer of that product (especially if the organic product is an input into a processed organic product) would be willing to buy that product. If it became widely known that a grower's certified organic product is contaminated, the organic status of the product would not be enough to convince buyers that the product is truly equivalent to other organic products that were not similarly contaminated. When such a product is to be exported or it is to be incorporated into an organic product that is to be exported, the danger becomes even greater since foreign buyers and processors are hesitant to purchase product that their customers might only think is contaminated.

Certification for Other Countries

The USDA's NOP can only establish regulations regarding the labeling of organic products for sale in the U.S. Foreign growers, processors and handlers wishing to sell products labeled as organic must meet U.S. federal regulations regarding organics and be certified by a USDA-authorized certifier (which could be a certifier based in a country other than the U.S.). With regards to U.S. grown, processed or handled products that are destined for foreign markets, the USDA plays no role in determining whether or not products are organic. Growers, processors and handlers in the U.S. interested in serving foreign organic markets must meet the standards established by the relevant foreign groups. Oftentimes, the same certifiers authorized by the USDA to certify products as organic in the U.S. are also authorized by foreign entities to certify products for those foreign markets.

Differences in standards are not necessarily characterized by a "more stringent" or "less stringent" rule. Sometimes the differences are based on the philosophical approach taken by the authorizing authority. For example, as mentioned before the U.S. approach to organics has generally been one geared towards the maintenance of soil health – something more measurable and clear. In Europe, some regulations are based on cultural standards regarding the maintenance of certain types of farming. For instance, some European standards state that "factory farming"

techniques are not appropriate for use in organic production; this means that manure harvested from enclosed animal operations would not necessarily be allowed in separate organic agricultural operations.